

M/027/007

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DIV OF OIL, GAS & MINING

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Second, in the course of the last six months the area previously used by Western States as a parking lot, as well as the area which has been proposed by Jumbo for construction of a new heap (both immediately adjacent to the old heaps which are to be covered by topsoil) were surveyed and tested by digging about 70 back hoe cuts down to bedrock. The depth of available topsoil in each cut was measured, one foot subtracted, and the net measurement for each hole was used to calculate the total quantity of topsoil which might be borrowed. The available material calculated to be 48,700 cubic yards. Refer to Attachment 2 for details.

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Together these two sources account for at least 57,000 cubic yards, which exceeds the largest estimate so far made by any of the parties for the amount of topsoil for which Western States had previously been held accountable. While both Western and Jumbo have questioned the validity of this figure and believe it to be very much on the high side, we now can demonstrate that this amount is available on site, and we invite your inspection of the test holes and a review with Mr. Hartshorn of his calculations.

With respect to the quality of this topsoil, and with reference to areas H, I, and J, in as much as this topsoil has never been disturbed, it is logical to assume that it must be identical to that which Western agreed to save when they built the heaps located adjacent to the area. Thus its composition and chemistry should not be in doubt as a replacement for that which should have been stockpiled by Western.

With respect to the quality of the topsoil under the parking lot and adjacent areas, the same conclusion can be reached for most of the same reasons. Although the topsoil has obviously been moved and made level for the parking lot, it is logical that this topsoil is similar in all respects to the 'missing' 55,000 cubic yards, and accordingly, its chemistry should not be subject to challenge.

If, after inspection of the site and verification of our calculations, you agree with our conclusions, we then can propose a new reclamation bond amount, based on this readily available material. We believe that this material can be harvested and spread on the adjacent heaps for less than \$0.50 per cubic yard, or about \$25,000 for the total of 55,000 cubic yards.

With respect to other Western States' related bonding, your Department has previously made an estimate of \$64,000 for all areas not presently bonded by Jumbo Mining Company (please refer to Reclamation Estimate prepared by Utah State Division of Oil, Gas and Mining, dated May 22, 1989).

These two items encompass all of the reclamation obligations which the Colorado District Court has ordered Jumbo to undertake, and total \$89,000 plus any annual inflation factor which your Division might add. I assume this inflation factor will be close to or less than the 1.93% annual factor used between 1989 and 1994.

Upon reaching agreement with your Division as to the final numbers, Jumbo is prepared to post bond for this amount, as directed by the Colorado District Court.

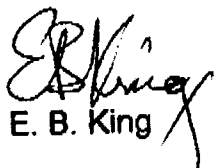
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As a final point, we want to reiterate that although we intend to comply fully with the letter and spirit of the decision made by the Colorado District Court, and in fact actually undertook to do so immediately upon the pronouncement of that decision, we believe that the decision is erroneous, and that it will ultimately be reversed by the Colorado Appellate Court. Accordingly, our present willingness to act as directed by the lower court is not in any way to be construed as an admission of ultimate liability or responsibility for the reclamation of these areas.

We further note that the Colorado District Court has not ruled that Jumbo is responsible for any pre-existing ground water contamination on the site which may have been caused by Western States.

If there are any questions, or further information is required, please give me a call. Either Dave Hartshorn or I will be pleased to meet with you on the site or in Salt Lake City to expedite the conclusion to the matter.

Sincerely yours,


E. B. King

Enclosure: Attachments 1 & 2.

cc: D. Hartshorn/Drum Mine
ZLS, WEM



